

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 921
90TH GENERAL ASSEMBLY

Reported from the Committee on Professional Registration & Licensing, April 10, 2000, with recommendation that the House Committee Substitute for Senate Bill No. 921 Do Pass.

ANNE C. WALKER, Chief Clerk

4270L.02C

AN ACT

To repeal sections 214.367, 214.392, 333.061, 333.081, 334.047, 334.128 and 339.150, RSMo 1994, sections 190.500, 214.275, 214.276, 324.205, 324.212, 324.217, 324.522, 329.210, 331.050, 331.090, 333.041, 333.042, 334.040, 334.120, 334.655 and 334.735, RSMo Supp. 1999, and section 337.029, RSMo Supp. 1999, as enacted by house committee substitute for senate committee substitute for senate bill no. 732 of the eighty-ninth general assembly, second regular session, relating to professional registration, and to enact in lieu thereof thirty new sections relating to the same subject, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 214.367, 214.392, 333.061, 333.081, 334.047, 334.128 and 339.150, RSMo 1994, and sections 190.500, 214.275, 214.276, 324.205, 324.212, 324.217, 324.522, 329.210, 331.050, 331.090, 333.041, 333.042, 334.040, 334.120, 334.655 and 334.735, RSMo Supp. 1999, and section 337.029, RSMo Supp. 1999, as enacted by house committee substitute for senate committee substitute for senate bill no. 732 of the eighty-ninth general assembly, second regular session, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 190.500, 214.275, 214.276, 214.367, 214.392, 324.205, 324.212, 324.217, 324.522, 324.525, 329.210, 331.032, 331.050, 331.090, 332.086, 333.041, 333.042, 333.061, 333.081, 334.040, 334.047, 334.120, 334.128, 334.655, 334.735, 339.150, 621.046, 1, 2 and 3, to read as follows:

190.500. Notwithstanding any other provision of law to the contrary, a temporary license may be issued for no more than a twelve-month period by the appropriate licensing board to any otherwise qualified health care professional licensed in another state and who meets such other requirements as the licensing board may prescribe by rule and regulation, if the health care professional:

(1) Is acting pursuant to federal military orders under Title X for active duty personnel or Title [XXII] **XXXII** for military reservists; and

(2) Is enrolled in an accredited training program for trauma treatment and disaster response in a hospital in this state.

214.275. 1. No endowed care or nonendowed care cemetery shall be operated in this state

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

unless the owner or operator thereof has a certificate of authority issued by the division **and complies with all applicable state, county or municipal ordinances and regulations.**

2. [The cemetery complies with all applicable state, county or municipal ordinances and regulations.] **It shall not be unlawful for a person, who does not have a certificate of authority, to care for or maintain the cemetery premises, or to fulfill prior contractual obligations for the interment of human remains in burial spaces.**

3. [The division shall grant or deny each application for a certificate of authority pursuant to this section within thirty days after it is filed, and no prosecution of any person who has filed an application for such certificate shall be initiated unless it is shown that such application was duly denied by the division and that the owner was duly notified thereof.] **Applications for a certificate of authority shall be in writing, submitted to the division on forms prescribed by the division. The application shall contain such information, as the division deems necessary, and be accompanied by the required fees.**

4. [The division may refuse to renew or may suspend or revoke any certificate pursuant to sections 214.270 to 214.516 if it finds, after hearing, that the cemetery does not meet the requirements set forth in sections 214.270 to 214.516 as conditions for the issuance of a certificate, or for the violation by the owner of the cemetery of any of the provisions of section 214.276. No new certificate shall be issued to the owner of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection, the procedure for notice and hearing as prescribed by section 214.276 shall be followed.] **Each certificate of authority issued pursuant to sections 214.270 to 214.516 shall be renewed every two years prior to the certificate renewal date established by the division. The division shall issue a new certificate of authority upon receipt of a proper renewal application and the required renewal fee. The division shall mail a renewal notice to the last known address of the holder of the certificate of authority prior to the renewal date. The holder of a certificate of authority shall keep the division advised of the holder's current address. The certificate of authority issued to the owner or operator of a cemetery which is not renewed within three months after the certificate renewal date shall be suspended automatically, subject to the right of the holder to have the suspended certificate of authority reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any certificate of authority suspended and not reinstated within nine months of the suspension shall expire and be void and the holder of such certificate shall have no rights or privileges provided to holders of valid certificates. Any person whose certificate of authority has expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original certificate of authority number.**

5. The division shall grant or deny each application for a certificate of authority pursuant to this section within ninety days after it is filed, and no prosecution of any person who has filed an application for such certificate shall be initiated unless it is shown that such application was duly denied by the division and that the owner was duly notified thereof.

6. Upon the filing of a completed application, as defined by rule, the applicant may operate the business until its application is acted upon by the division.

7. Within thirty days after the sale or transfer of ownership or control of a cemetery, the transferor must return its certificate of authority to the division. A prospective purchaser or transferee of a cemetery, must file an application for a certificate of authority, at least thirty

days, prior to the sale or transfer of ownership or control of a cemetery and shall be in compliance with sections 214.270 to 214.516.

214.276. 1. The division may refuse to issue **or renew** any certificate of registration or authority, required pursuant to sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any certificate of registration or authority, required by sections 214.270 to 214.516 or any person who has failed to surrender his or her certificate of registration or authority, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 214.270 to 214.516;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 214.270 to 214.516, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession regulated by sections 214.270 to 214.516;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to 214.516;

(7) Impersonation of any person holding a certificate of registration or authority, or allowing any person to use his or her certificate of registration or authority;

(8) Disciplinary action against the holder of a certificate or other right to practice any profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a certificate of registration or authority based upon a material mistake of fact;

(12) Failure to display a valid certificate;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of any of the provisions of sections 214.270 to 214.516;

(16) Willfully and through undue influence selling a cemetery lot, services or merchandise.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the [board] **division** may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the certificate or permit. **No new certificate shall be issued to the owner of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.**

4. Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following the effective date of this section, apply for a certificate of authority pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following the effective date of this section shall be granted a certificate of authority by the division upon receipt of application.

5. The division may settle disputes arising under subsections 2 and 3 of this section by consent agreement or settlement agreement between the division and the holder of a certificate of authority. Within such a settlement agreement, the division may singly or in combination, impose any discipline or penalties allowed under this section or subsection 4 of section 214.410. Settlement of these disputes shall be entered into pursuant to the procedures set forth in section 621.045, RSMo.

214.367. A prospective purchaser **or transferee** of any endowed care cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's most recent audit or inspection report from the division. [The division shall inform the prospective purchaser, within thirty days, whether the cemetery may continue to operate and be represented as an endowed care cemetery.]

214.392. 1. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 214.270 to 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 214.270 to 214.410;

(3) Be allowed to convey full authority to each city or county governing body the use of inmates controlled by the department of corrections and the board of probation and parole to care for abandoned cemeteries located within the boundaries of each city or county;

(4) Exercise all budgeting, purchasing, reporting and other related management functions;

(5) [Promulgate such rules and regulations as are necessary to administer the inspection and audit provisions of the endowed care cemetery law and as are necessary for the establishment and maintenance of the cemetery registry pursuant to section 214.280.] **The division may promulgate rules and regulations necessary to administer the provisions of sections 214.270 to 214.516 including but not limited to:**

(a) **Rules setting the amount of fees which are authorized pursuant to sections 214.270 to 214.516. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 214.270 to 214.516. All funds received by the division pursuant to the provisions of sections 214.270 to 214.516 shall be collected by the director who shall transmit the funds to the department of revenue for deposit in the state**

treasury to the credit of the Endowed Care Cemetery Audit Fund as created in section 193.265;

(b) Rules to administer the inspection and audit provisions of the endowed care cemetery law;

(c) Rules for the establishment and maintenance of the cemetery registry pursuant to section 214.280.

2. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.] **No rule or portion of a rule promulgated under the authority of sections 214.270 to 214.516 shall become effective unless it has been promulgated pursuant to the applicable rulemaking procedures set forth in chapter 536, RSMo.**

324.205. 1. After July 1, 2000, no person may use the title licensed dietitian or L.D. in this state

unless the person is licensed pursuant to the provisions of sections 324.200 to 324.225.

2. Any person who violates the provisions of subsection 1 of this section is guilty of [an infraction] **a class A misdemeanor.**

324.212. 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for [licensure] **renewal**, or to pay the [licensure] **renewal** fee after such notice shall effect a noncurrent license. The license shall be [restored] **reinstated** if, within two years of the [licensure] **renewal** date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new [certificate] **license** to replace any [certificate] **license** lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.217. 1. The committee may refuse to issue any license or renew any license required by the provisions of sections 324.200 to 324.225 for one or any combination of reasons stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against the holder of any license required by sections 324.200 to 324.225 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation or bribery in securing a license issued pursuant to the provisions of sections 324.200 to 324.225 or in obtaining permission to take the examination required pursuant to sections 324.200 to 324.225;

(2) Impersonation of any person holding a license or allowing any person to use his or her license or diploma from any school;

(3) [Revocation or suspension of a license] **Disciplinary action against the holder of a license** or other right to practice medical nutrition therapy by another state, territory, federal agency or country

upon grounds for which revocation or suspension is authorized in this state;

(4) [Obtaining a license] **Issuance of a license** based upon a material mistake of fact; [or]

(5) [Failure to display a valid license if so required by sections 324.200 to 324.225 or any rule promulgated pursuant thereto] **Final adjudication of guilt, or having entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of the profession regulated pursuant to sections 324.200 to 324.225, for any offense an essential element of which is fraud, dishonesty or act of violence, or for any offense involving moral turpitude, regardless of whether sentence is imposed;**

(6) **Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 324.200 to 324.225;**

(7) **Violation of, or assisting or enabling any person to violate, any provisions of sections 324.200 to 324.225, or any lawful rule or regulation adopted pursuant to such sections;**

(8) **Final adjudication of insanity or incompetence by a court of competent jurisdiction;**

(9) **Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or to persons to whom the advertisement or solicitation is primarily directed;**

(10) **Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;**

(11) **Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 324.200 to 324.225;**

(12) **Violation of the drug laws or rules and regulations of this state, any state or of the United States; or**

(13) **Violation of any professional trust on confidence.**

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 324.200 to 324.225 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed [three] **five years, or may suspend, for a period not to exceed three years, or** revoke the license of the person. **An individual whose license has been revoked may only apply for relicensure after one year from the date of revocation. Relicensure shall be at the discretion of the committee after compliance with all requirements of sections 324.200 to 324.225 relative to the licensing of an applicant for the first time.**

5. The committee shall maintain an information file containing each complaint filed with the committee relating to a holder of a license. [The committee, at least quarterly, shall notify the complainant and holder of a license of the complaint's status until final disposition.]

6. The committee shall recommend for prosecution violations of sections 324.200 to 324.225 to an appropriate prosecuting or circuit attorney.

324.522. 1. No practitioner of tattooing, body piercing or branding shall practice and no establishment in which tattoos, body piercing or brandings are applied shall be operated without a license issued by the director of the division of professional registration. The license fee for each practitioner and each establishment shall be established by rule.

2. The director of the division of professional registration shall promulgate rules and regulations relative to the hygienic practice of tattooing, **branding, body piercing** and sanitary operations of tattoo, **branding and body piercing** establishments. Such rules and regulations shall include:

(1) Standards of hygiene to be met and maintained by establishments and practitioners in order to receive and maintain a license for the practice of tattooing, **branding and body piercing**;

(2) Procedures to be used to grant, revoke or reinstate a license;

(3) Inspection of tattoo, **branding and body piercing** establishments; and

(4) Any other matter necessary to the administration of this section.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.520 to 324.524 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

324.525. 1. Upon application by the division and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license, certificate, permit or other authority is required upon a showing that such acts or practices were performed or offered to be performed without a license, certificate, permit or other authority; or

(2) Engaging in any practice authorized by a license, certificate, permit or authority pursuant to this chapter upon a showing that the holder presents a serious danger to the health, safety or welfare of any resident of the state or client or patient of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county where the defendant resides.

3. Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty or other disciplinary action provided by this chapter, and may be brought concurrently with other actions to enforce this chapter.

329.210. 1. The board shall have power to:

(1) Prescribe by rule for the examinations of applicants for licensure to practice the classified occupation of cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of cosmetology [by persons

licensed in cosmetology] as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering this chapter;

(4) Employ and remove board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(5) Elect one of its members president, one vice president and one secretary; and

(6) Determine the sufficiency of the qualifications of applicants.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed pursuant to this chapter.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

331.032. 1. Notwithstanding any other provision of law to the contrary, the board of chiropractic examiners may issue a temporary license to practice chiropractic to a chiropractor holding a current and unrestricted license to practice chiropractic issued pursuant to the laws of a state other than Missouri.

2. A temporary license issued pursuant to this section shall be valid for a maximum period of ninety days, and the board shall not issue more than two temporary licenses to an applicant during any calendar year.

3. An applicant for a temporary license shall submit to the board a complete application on a form prescribed by the board, pay an application fee as determined by rule of the board, and furnish proof satisfactory to the board that the applicant meets all requirements for licensure, or examination pursuant to section 331.030.

4. In addition to all other requirements herein, an applicant for a temporary license pursuant to this section shall include with such applicant's application, the name of the chiropractic school or college from which the applicant graduated and the date of such graduation, and, evidence of such applicant's current and unrestricted licensure in another state, including the number of such license and a photocopy thereof along with any other evidence deemed necessary by the board.

5. All provisions of this chapter which apply to applicants for and holders of licenses to practice chiropractic, other than as specified in this section, shall apply to applicants for and

holders of temporary licenses, including the board's authority to conduct any investigation it considers appropriate to verify an applicant's credentials, moral character and fitness to receive a temporary license and the board's authority to take actions pursuant to the provisions of this chapter, or other provision of law.

6. The board of chiropractic examiners may adopt rules it considers necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

331.050. 1. All persons once licensed to practice chiropractic in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the board satisfactory evidence of the completion of the requisite number of hours, which shall not be less than twelve hours nor more than twenty-four hours per year, of postgraduate study or not less than twenty-four hours nor more than forty-eight hours if renewal occurs biennially. The postgraduate study required shall be [that presented by a college of chiropractic accredited by the Council on Chiropractic Education or] a course of study approved by the board. The requisite number of hours is to be determined by the board. The board may set the requisite number of hours between the range of twelve to twenty-four hours, but may not increase the number of hours in excess of twelve hours by more than four hours in any two-year period. The board shall give advance notice of one year to all chiropractors licensed in the state before increasing the number of required hours. The educational requirements may be waived by the board upon presentation to it of satisfactory evidence of the illness of the chiropractor or for other good cause. A notice that the renewal fee will be due on the renewal date shall, on or before the first day of the month immediately preceding the renewal date, be mailed to all chiropractors licensed in the state for more than three months. Each practitioner of chiropractic shall display in his or her office, in a conspicuous place, his or her renewal license together with his or her original license showing that such practitioner of chiropractic is lawfully entitled to practice chiropractic. Failure of the licensee to receive the renewal form shall not relieve the licensee of the duty to renew his or her license and pay the fee required by this chapter.

2. Any licensee who allows his or her license to lapse by failing to renew the license as provided in sections 331.010 to 331.100 may be reinstated upon satisfactory explanation of such failure to renew his or her license and the payment of a reactivation fee and the current renewal fee. Any delinquent licensee who has been out of active practice for more than three years shall be required to return to an accredited chiropractic college for a semester of additional study in the clinical subjects prior to the board reviewing his or her request for reinstatement, and to pass a practical examination administered by the board.

331.090. 1. The "Missouri State Board of Chiropractic Examiners" shall consist of five chiropractors, not more than two of whom shall be graduated from the same school or college of chiropractic, and one voting public member, to be appointed by the governor, with the advice and consent of the senate, from nominees submitted by the director of the division of professional registration, for a term of five years; except that, of the chiropractic members appointed for the terms which begin in 1989, one shall be appointed for a term of three years and one for a term of four years, of the chiropractic members appointed for the terms which begin in 1990, one shall be appointed for a term of four years and one shall be appointed for a term of five years, and the chiropractic member appointed for the term which begins in 1991 shall be appointed for a term of five years. **Beginning 2001** all successors to members shall be appointed to terms of [five] **three** years. The person appointed to fill an unexpired term shall serve for the unexpired term [only] **and is eligible to serve one consecutive three-year term.** Each member shall

be limited to two full consecutive terms. A member may be removed by the governor for incompetence or improper conduct. The chiropractors shall be United States citizens and shall have been residents of this state for one year and shall have practiced chiropractic continuously for a period of at least two years prior to such appointment. No person shall be appointed to the state board of chiropractic examiners who practices any other method of healing than chiropractic as defined in this chapter. The president of the Missouri State Chiropractors Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five chiropractors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Chiropractors Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

332.086. 1. There is hereby established a five-member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

- (1) Recommend the educational requirements to be registered as a dental hygienist;**
- (2) Annually review the practice act of dental hygiene;**
- (3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and**
- (4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.**

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter. Members of the commission who are not also members of the Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2001. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted

to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

333.041. 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he **or she** is:

(1) At least eighteen years of age, and possesses a high school diploma or equivalent thereof;

(2) Either a citizen or a bona fide resident of the state of Missouri or entitled to a license [under] **pursuant to** section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3) A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is [entering] **enrolled in** an accredited institution of mortuary science education shall register with the board as a **practicum** student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his **or her** practicum for the accredited institution of mortuary science education. The [forms] **form** for registration as a [student and as a] practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he **or she**:

(1) Is at least eighteen years of age, and possesses a high school diploma or equivalent thereof;

(2) Is either a citizen or bona fide resident of the state of Missouri or entitled to a license [under] **pursuant to** section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;

(3) Is a person of good moral character;

(4) Has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education, or any successor organization recognized by the United States Department of Education, for funeral service education. If an applicant does not appear for the final examination before the board within five years from the date of his **or her** graduation from an accredited institution of mortuary science education, his **or her** registration as a student embalmer shall be automatically canceled;

(5) Upon due examination administered by the board, is possessed of a knowledge of the subjects

of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he **or she** may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his **or her** desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

(6) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not appear for oral examination within the five years after his **or her** graduation from an accredited institution of mortuary science education, then he **or she** must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his **or her** qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

333.042. 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. Applicants not entitled to a license [under] **pursuant to** section 333.051 shall serve an apprenticeship for at least twelve months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his **or her** duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of

a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he **or she** shall **make application, pay the current application and examination fee and** successfully complete the [written] **Missouri law** examination [pursuant to subsection 1 of this section; however, he is]. **He or she shall be** exempt from the [six-month internship, six-month] **twelve-month** apprenticeship and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he **or she** may obtain a full funeral director's license if he **or she** fulfills the [internship,] apprenticeship and [practical knowledge test requirements of subsection 1 of this section] **successfully completes the funeral director practical examination.**

3. If an individual is a Missouri licensed embalmer or has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department of Education for Funeral Service Education, or has successfully completed a course of study in funeral directing offered by a college accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

333.061. 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and [his] **the embalmer's** license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license [under] **pursuant to** this section within thirty days after it is filed[, and no prosecution of any person who has filed an application for such license for violation of this section shall be maintained unless it is shown that his application was duly denied by the board and that he was duly notified thereof]. **The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.**

4. Licenses shall be issued [under] **pursuant to** this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued [under] **pursuant to** this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken [under] **pursuant to** this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

333.081. 1. Each license issued to a funeral director or embalmer [under] **pursuant to** this chapter shall expire unless renewed on or before the renewal date. The board may, however, provide for the renewal of licenses held by individuals who are not actively engaged in practice and who are over sixty-five years of age without fee. The board shall renew any such license upon due application for renewal and upon the payment of the renewal fee, except that no license shall expire during the period when the holder thereof is actively engaged in the military service of the United States. Any licensee exempted from the renewal of his **or her** license because of military service shall, before beginning practice in this state after leaving military service, apply for and pay the renewal fee for the current licensing period.

2. When renewing a funeral director's or embalmer's license the licensee shall specify the address of the funeral establishment at which he **or she** is practicing or proposes to practice and shall notify the board of any termination of his **or her** connection therewith. The licensee shall notify the board of any new employment or connection with a funeral establishment of a permanent nature. If the licensee is not employed at or connected with a funeral establishment he shall notify the board of his **or her** permanent address.

3. [The board shall not renew any license more than ninety days after the renewal date but shall notify the licensee that his license has expired.] The holder of an expired license shall be issued a new license by the board within two years of the renewal date after he **or she** has paid delinquent renewal fees. Any license not renewed within two years shall be void.

4. Failure of the licensee to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his **or her** license.

334.040. 1. Except as provided in section 334.260, all persons desiring to practice as physicians and surgeons in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file a completed application with the board at least eighty days before the date set for examination upon blanks furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a physician and surgeon. The examination shall be conducted in such a manner as to conceal the identity of the applicant

until all examinations have been scored. In all such examinations an average score of not less than seventy-five percent is required to pass; provided, however, that the board may require applicants to take the Federation Licensing Examination, also known as FLEX, or the United States Medical Licensing Examination (USMLE). If the FLEX examination is required, a weighted average score of no less than seventy-five percent is required to pass. The passing score of the United States Medical Licensing Examination shall be determined by the board through rule and regulation. The board shall not issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three attempts on licensing examinations administered in one or more states or territories of the United States, the District of Columbia or Canada. The steps one, two and three of the United States Medical Licensing Examination shall be taken within a seven-year period with no more than three attempts on any step of the examination; **however, the board may grant an extension of the seven-year period if the applicant has obtained a MD/PhD degree in a program accredited by the liaison committee on medical education (LCME) and a regional university accrediting body.** The board may waive the provisions of this section if the applicant is licensed to practice as a physician and surgeon in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia and no license issued to the applicant has been disciplined in any state or territory of the United States or the District of Columbia. Prior to waiving the provisions of this section, the board may require the applicant to achieve a passing score on one of the following:

- (1) The American Specialty Board's certifying examination in the physician's field of specialization;
- (2) Part II of the FLEX; or
- (3) The Federation portion of the State Medical Board's Special Purpose Examination (SPEX).

3. If the board waives the provisions of this section, then the license issued to the applicant may be limited or restricted to the applicant's board specialty. Scores from one test administration shall not be combined or averaged with scores from other test administrations to achieve a passing score. The board shall not be permitted to favor any particular school or system of healing.

334.047. 1. On the licenses issued by the board, the board shall enter after the name of the licensee the degree to which the licensee is entitled by reason of his diploma of graduation from a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education or approved and accredited as reputable by the American Osteopathic Association.

2. A licensee under this chapter shall, in any letter, business card, advertisement, prescription blank[,], or sign, [or public listing or display of any nature whatsoever,] designate the degree to which he is entitled by reason of his diploma of graduation from a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education or approved and accredited as reputable by the American Osteopathic Association.

3. On licenses issued by the board to foreign trained licensees, the board may enter the degree to which the licensee is entitled based upon the nature of the licensee's education and training and the licensee shall, in any writing or display, so designate this degree.

334.120. 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons, and midwives in this state. The board shall consist of nine members, including one voting

public member, to be appointed by the governor by and with the advice and consent of the senate, **at least** five of whom shall be graduates of professional schools approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education and **at least** two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

334.128. Any person who reports or provides information to the board, or any person who assists the board, including, but not limited to, **physicians' health programs operated in this state approved by the board for impaired physicians, and individuals working or consulting with, or staffing such physicians' health programs, or** applicants or licensees who are the subject of an investigation, physicians serving on competency panels, medical record custodians, consultants, attorneys, board members, agents, employees or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to the provisions of this chapter and who does so in good faith and without malice shall not be subject to an action for civil damages as a result thereof, and no cause of action [of any nature] shall arise against him **or her as a result of his or her conduct pursuant to this section.** The attorney general shall defend such persons in any such action or

proceeding.

334.655. 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

- (1) A certificate of graduation from an accredited high school or its equivalent; and
- (2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education.

2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as to the person's fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace a written examination and which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners. The examination shall be given by the board at least once each year. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times **after August 28, 2000**, any physical therapist **assistant** licensing examination administered in one or more states or territories of the United States or the District of Columbia. The examination given at any particular time shall be the same for all candidates and the same curriculum shall be included and the same questions shall be asked.

4. The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years and thereafter may be destroyed.

6. [The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.

7.] A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.

334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

- (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- (2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;
- (3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
- (4) "Department", the department of economic development or a designated agency thereof;
- (5) "License", a document issued to an applicant by the department acknowledging that the applicant is entitled to practice as a physician assistant;
- (6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;
- (7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;
- (8) "Supervision", [control exercised over a physician assistant working within the same office facility of the supervising physician except a physician assistant may make follow-up patient examinations in hospitals, nursing homes and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician.] **overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The supervising physician shall at all times be immediately available to the physician assistant for consultation, assistance or intervention either personally or via telecommunications. A supervising physician shall be personally present for practice supervision and collaboration a minimum of twenty percent of clinic hours in any clinic location utilizing physicians assistants. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services; except that, physician assistants practicing in federally designated health professional shortage areas (HPSA's) shall be limited to practice at locations where the supervising physician is no further than fifty miles by road, using the most direct route available.** The board shall promulgate rules pursuant to chapter 536, RSMo, for the [proximity of practice between the physician assistant and the supervising physician and] documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant.

2. The scope of practice of a physician assistant shall consist only of the following services and procedures:

- (1) Taking patient histories;
- (2) Performing physical examinations of a patient;
- (3) Performing or assisting in the performance of routine office laboratory and patient screening

procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the [physician's] **physician** assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

3. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall not prescribe controlled substances;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

4. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

5. The physician assistant shall be a person who is a graduate of a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and

Accreditation or its successor or is certified by a national nongovernmental agency or association, who has passed the National Commission on Certification of Physician Assistants examination and has active certification by the National Commission on Certification of Physician Assistants or its successor. A person who has been employed as a physician assistant for three years prior to August 28, 1989, and has passed the National Commission on Certification of Physician Assistants examination shall be deemed to have met the academic requirements necessary for licensing.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement, shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. No physician may be designated to serve as supervising physician for more than three full time equivalent licensed physician assistants. This information shall not apply to physician assistant agreements of hospital employees providing in-patient care services in hospitals as defined in chapter 197, RSMo.

11. It is the responsibility of the supervising physician to determine and document the completion of at least a one month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

339.150. 1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate sales person is required pursuant to sections 339.010 to 339.180, unless such a person is a licensed real estate salesperson or a licensed real estate broker as required by section 339.020[, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri. Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling,

exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri].

[3.] 2. No real estate broker shall pay a commission or any other valuable consideration for the referral of a potential buyer, seller, lessor or lessee of real estate unless the recipient of the referral fee is a licensed broker or salesperson as required by sections 339.018 to 339.180, or is licensed as a real estate broker or sales person in another state or foreign country, or is regularly engaged in the real estate business in another state or foreign country where a license is not required. No real estate broker shall pay a commission or any other valuable consideration to a person or party who is not licensed or otherwise regularly engaged in the real estate business in another state or foreign country where a license is not required. Nothing in this section shall be construed to limit the ability of a licensee to make adjustments to his or her commission with a party to the transaction.

3. No licensee shall pay a commission or any other valuable consideration unless reasonable cause for payment exists or a contractual relationship exists with the licensee. Reasonable cause does not exist unless the party seeking the compensation or other valuable compensation actually introduces the business to the real estate licensee before a relationship is established between the licensee and a principal to the transaction, including:

- (1) A subagency relationship;**
- (2) A transaction brokerage relationship; or**
- (3) A cooperative brokerage relationship.**

4. It shall be a violation of this section to:

(1) Solicit or request compensation or other valuable consideration from a real estate licensee without reasonable cause;

(2) Interfere with a written representation relationship of another licensee or attempt to induce a customer or client to break a written representation agreement with another licensee for the purpose of replacing such agreement with a new representation agreement in order to obtain a commission or other valuable consideration. Interfering with the written representation agreement of another licensee includes, but is not limited to:

(a) Threatening to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a customer or client of a real estate licensee because of an existing representation agreement in order to obtain compensation or other valuable consideration; or

(b) Counseling a customer or client of another real estate licensee on how to terminate or amend an existing relationship agreement in order to obtain a commission or other valuable consideration. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered interference as long as the communication does not involve advice or encouragement on how to terminate or amend an existing relationship agreement.

The fact that reasonable cause to solicit or request a commission or other valuable consideration exists does not necessarily mean that a legal right to the commission or other valuable consideration exists.

5. Any violation of this section shall be grounds for investigation, complaint, proceedings and discipline pursuant to section 339.100.

6. Notwithstanding the provisions of subsections 1 [and 2] to 5 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his or her services rendered to a broker notwithstanding the provisions of section 339.160.

7. Nothing in this chapter shall prevent any consumer from joining any organization in which one of the benefits of membership may be that such organization can negotiate a reduced rate or price for real estate costs for its members nor shall it prohibit an inducement to the buyer paid and supplied by the owner of the property directly to a buyer or lessee of the property. Any rebate from a commission must be paid directly from the Missouri licensee to the party to the transaction and must be paid at closing.

621.046. 1. Prior to any initial oral interviewing or questioning of any person licensed or registered by the division of professional registration accused of any infraction of or violation of any licensing law, the licensee or registrant must receive notice as follows:

"The State of Missouri will be represented by an attorney. Any statement you provide may be used against you and could cause your license or registration to be disciplined. You have the right to be represented by an attorney paid for at your expense and to have your attorney present during such interview or questioning."

2. No information gathered from a licensee or registrant without notification as required in subsection 1 of this section shall be used as evidence in any proceeding against that licensee or registrant. Notwithstanding the foregoing, investigators or inspectors shall not be required to provide any additional notice when the investigation involves in part or entirely any licensee that is already under board discipline, investigation of licensees suspected of prescription drug diversion, inspections and audits.

3. This section shall only apply to investigations initiated after January 1, 2001.

Section 1. Any inspection for evidence of wood destroying insects at the request of a real estate broker, as defined in section 339.010, RSMo, buyer, seller or lending institution shall be reported on a wood destroying insect inspection form approved by the United States Department of Housing and Urban Development, and such inspections shall only be performed by a person certified pursuant to chapter 281, RSMo.

Section 2. No person shall tattoo, brand or perform body piercing on the genitals or female breast of another person if the other person is under the age of eighteen, with or without the prior written informed consent of the minor's parent or legal guardian. Violation of this section is a class A misdemeanor.

Section 3. 1. A person commits the crime of genital mutilation if such person:

(1) Excises or infibulates, in whole or in part, the labia majora, labia minora, vulva or clitoris of a female child less than seventeen years of age; or

(2) Is a parent, guardian or other person legally responsible for a female child less than

seventeen years of age and permits the excision or infibulation, in whole or in part, of the labia majora, labia minora, vulva or clitoris of such female child.

2. Genital mutilation is a class B felony.

3. Belief that the conduct described in subsection 1 of this section is required as a matter of custom, ritual or standard practice, or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian, shall not be an affirmative defense to a charge pursuant to this section.

4. It is an affirmative defense that the defendant engaged in the conduct charged which constitutes genital mutilation if the conduct was:

(1) Necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine in this state; or

(2) Performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with such labor or birth by a person licensed to practice medicine in this state pursuant to the provisions of chapter 324, RSMo.

[337.029. 1. A psychologist licensed in another jurisdiction who has had no violations and no suspensions and no revocation of a license to practice psychology in any jurisdiction may receive a license in Missouri, provided the psychologist passes a written examination on Missouri laws and regulations governing the practice of psychology and meets one of the following criteria:

(1) Is a diplomate of the American Board of Professional Psychology;

(2) Is a member of the National Register of Health Service Providers in Psychology;

(3) Is currently licensed or certified as a psychologist in another jurisdiction who is then a signatory to the Association of State and Provincial Psychology Board's reciprocity agreement;

(4) Is currently licensed or certified as a psychologist in another state, territory of the United States, or the District of Columbia whose requirements for licensure at the time the applicant was licensed were substantially equal to or greater than this state's requirements were for licensure at such time; or

(5) Is currently licensed or certified as a psychologist in a state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

2. Notwithstanding the provisions of subsection 1 of this section, applicants may be required to pass an oral examination as adopted by the committee.

3. A psychologist who receives a license for the practice of psychology in the state of Missouri on the basis of reciprocity as listed in subsection 1 of this section or by endorsement of the score from the examination of professional practice in psychology score will also be eligible for and shall receive certification from the committee as a health service provider if the psychologist meets one or more of the following criteria:

(1) Is a diplomate of the American Board of Professional Psychology in one or more of the specialties recognized by the American Board of Professional Psychology as pertaining to health service delivery;

(2) Is a member of the National Register of Health Service Providers in Psychology; or

(3) Has completed or obtained through education, training, or experience the requisite knowledge comparable to that which is required pursuant to section 337.033.]